

REMARKS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

The specification has been amended to correct the spelling of the term "inducible". The claims have been amended to correct the spelling of the term "inducible", where that spelling was not previously corrected. The claims have also been revised to delete the reference to "functional derivatives". That this revision has been made should not be construed as an indication that Applicants agree with any view expressed by the Examiner. Rather the revision is offered to advance prosecution and Applicants reserve the right to pursue any deleted subject matter in a continuation application. Claims 10 and 33 have been revised so as to be properly dependent.

New drawings are submitted herewith that are believed to address the points noted on the PTO 948 Form. Acceptance of the drawing is requested.

Page 2 of the March 5, 2003 Office Action does not appear to relate to the subject application. Indeed, that page is headed in Appln. No. 09/700,934 (a copy of the page is attached for the Examiner's ease of reference). On that page, claims 1-31 are indicated as being rejected under 35 USC 112, second paragraph, in view of the recitation of "90% ccc monomer plasmid DNA". Such language does not appear in the present claims. The Examiner is requested to clarify the record by providing a copy of the proper page. The Examiner is also requested to issue a new Action setting a new due date should there be any rejections on the proper page 2 that are not addressed here.

Page 3 of the Action does appear to be relevant to the present case and it is believed that the above-noted revisions address the concerns alluded to at the top of that page (to the extent those concerns can be understood in view of the absence of the proper page 2).

On page 3 of the Action, the Examiner rejects claims 1-12, 35, 37 and 38 under 35 USC 112, first and second paragraphs. Withdrawal of the rejections is submitted to be in order for the reasons that follow.

The claims have been revised to delete the reference to "functional derivatives". It is believed that this revision addresses the Examiner's concerns, both as regards definiteness and as regards written description. Accordingly, reconsideration and withdrawal of both rejections are requested.

This application is submitted to be in condition for allowance and a notice to that effect is requested.

Respectfully submitted,

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DETAILED ACTION

Receipt is acknowledged of a reply, filed December 3, 2002 as Paper No. 13, to the previous Office Action. Amendments were made to the claims.

Claims 1-31 are pending and under consideration in the instant application. Any rejection of record in the previous Office Action, Paper No. 11, mailed June 4, 2002, that is not addressed in this action has been withdrawn.

Because this Office Action is based upon rejections that are maintained for the reasons set forth in a previous rejection, or are necessitated by amendment, this Office Action is FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-31 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 (and all dependent claims) is rejected under 35 U.S.C. 112, second paragraph, as being indefinite because it is unclear what method of plasmid DNA isolation results in greater than 90% ccc monomer plasmid DNA. There are a number of methods of preparing plasmid DNA, some of which may result in significant contamination by genomic DNA, RNA and plasmid variants which the preferred embodiments of the instant method are designed to avoid, and which would reduce the percentage of monomer plasmid DNA obtained by the method,